IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12144 of 2004

Between:

S.Rahimunnissa, w/o S.Fakruddin,
R/o C/o Amar Tailors, R.S.Road, Dharmavaram, Ananthapur District.

..... PETITIONER

AND

The Asst.Divisional Engineer, Electrical/Operation, A.P.Central Power Distribution Corporation Limited, Dharmavaram, Ananthapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or writs, order or direction, declaring the action of the respondent in demanding amounts from the petitioner towards alleged pilferage of energy pursuant to the Provisional Assessment Notice dt.11-5-2001 in Lr.No.ADE/O/DMM/118, as illegal, arbitrary and without jurisdiction, by further setting aside the said notice dt.11-5-2001 on the file of the respondent; award costs and pass such other order or orders as are deemed fit in the circumstances of the case.

Counsel for the Petitioner:MR.N.RANGA REDDY

Counsel for the Respondent No.: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court at the admission stage made the following O R D E R:

This writ petition is filed by the petitioner questioning the provisional assessment notice dated 11-05-2001 on the ground that the respondent has no jurisdiction to determine the amount of loss or compensation payable for the alleged pilferage of power and it is only the special Tribunal constituted under Section 49 (c) of the Indian Electricity (Andhra Pradesh Amendment) Act, 2000 (for short "the Act") has jurisdiction to decide the same.

Learned counsel for the petitioner contended that though the petitioner deposited an amount of Rs.10,000/- on receipt of the provisional assessment notice dated 11-05-2001, the respondent did not pursue and no final assessment order was passed, and now the respondent is demanding the amount as per the provisional assessment after a lapse of more than three years. Apart from that, learned counsel contended that the assessment or determination of loss caused to the Department due to the alleged pilfered power has to be determined only by the Tribunal constituted under Section 49(c) of the Act, therefore, the respondent has to transfer the proceedings to the Tribunal having jurisdiction for adjudication of the issue.

Heard learned counsel for the petitioner and the learned Standing Counsel for the respondent.

In view of the decision of this Court reported in ***Cheedi Rama Rao vs. Transmission Corporation of Andhra Pradesh Limited, A.P.(Transco) represented by its Chief Managing Director and others*** that it is only the Tribunal that is competent to decide the issue, the respondent has no jurisdiction to make any demand unless and until a determination is made by the competent Tribunal.

Under the above circumstances, the respondent is directed to transfer the proceedings to the Tribunal having jurisdiction for determining the issue. Pending determination by the Tribunal, the respondent is directed not to disconnect the power supply or make any demand from the petitioner.

The writ petition is accordingly dismissed.

_____

15-07-2004

vrn

To

1. The Asst.Divisional Engineer, Electrical/Operation, A.P.Central Power Distribution Corporation Limited, Dharmavaram, Ananthapur District.

2. Two C.D copies.